

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 2ND DAY OF JUNE 1998

BEFORE

THE HON'BLE MR JUSTICE A.J. SADASHIVA

WRIT PETITION NO.15254/1994

BETWEEN:

Smt Chikkayamma, 70 yrs.
W/o late Muniswamappa,
R/o Konappana agrahara,
Begur hobli,
Bangalore South Taluk,

[By Sri.G. Gangi Reddy, adv.for petitioner]

AND:

1. The Spl. Land Acqn. Officer,
K.I.A.D.B. Hudson Circle,
Bangalore-27.
2. The Karnataka Industrial Areas
Development Board,
Hudson Circle, Bangalore-27,
by its Secretary. ...

RESPONDENTS

[By Sri.Ashok B. Hinchigeri, Adv. for Respondents]

This Memorandum of Writ Petition is filed under Articles 226 and 227 of the Constitution of India, praying to quash the impugned endorsement bearing No.LAQ:1955:93-94 dated 18-3-1994 [Annexure-D]; and to direct the respondents to pass award in terms of Annexure-B bearing LAC No.185/84 and connected cases dated 4.1.1992 in respect of petitioner's land in Sy.No.20 measuring 4.20 acres of Konappana-agrahara, Bangalore South Taluk, under section 28A of Land Acquisition Act.

The petition coming on for hearing this day, the court made the following order:

ORDER

The learned Counsel for the petitioner states

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that this petition is covered by the decision of the Supreme Court in UNION OF INDIA AND ANOTHER vs. PRADEEP KUMARI AND OTHERS, AIR 1995 S.C. 2259, wherein it is held that it cannot be said that the period of limitation for making an application under Section 28A of the Act has to be computed from the date of the making of the first award after coming into force of Section 28-A and any subsequent award has no bearing on the right conferred by Section 28-A and the principle that once the limitation begins to run it runs in its full course until its running is interdicted by an order of the court, can have no application because the limitation for moving the application under Section 28-A will begin to run only from the date of the award on the basis of which redetermination of compensation is sought. The Supreme Court while so holding over-ruled the earlier decision of the Supreme Court in [1994] 7 JT [SC] 377 and 1995 (1) SCALE 21 (SC).

2. In view of the earlier decision having been over-ruled the contention in Pradeep Kumari is the law that prevails as on this day as declared by the Supreme Court. However, it is contended by Sri.Ashok B. Hinchigeri that in view of the same question having been referred to a larger Bench in STATE OF U.P. & others vs. U.P. MADHYAMIK SHIKSHA

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the Supreme Court in a pending reference in STATE OF U.P. vs. U.P.MADHYAMIK SHIKSHA PARISHAD SHRAMIK SANGH which is referred to the larger Bench.

4. Following the decision of the Supreme Court in Union of India vs. Pradeep Kumari, AIR 1995 S.C. 2259, this petition is allowed and the order dated March 18, 1994, passed by the first respondent in No.LAQ;1955:93-94 as per Annexure-D is hereby quashed. A direction shall issue to the first respondent to re-consider the application of the petitioner for redetermination of compensation in the light of the decision of the Supreme Court in Pradeep Kumari's case and make appropriate award thereon. The petitioner is also entitled to receive redetermined compensation on filing an undertaking that he would repay the sum with interest at 12% per annum in case the decision in Pradeep Kumari is reversed and further subject to the petitioner furnishing the bank guarantee in respect of the amount so determined under Section 28A of the Act.

Compliance within six months from the date of receipt of this order.

5. In the circumstances of the case, there is no order as to costs.

Sd/-
JUDGE

